

Project No: 8157
Project Name: Abel Street Infrastructure Improvements,
Penitencia Creek Bank Repair Permitting

AMENDMENT TO AGREEMENT No. 15
FOR CONSULTATION AND OTHER SERVICES

This amendment is entered into this ____ of April 2006, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY" and RBF Consulting (hereafter referred to as "CONSULTANT").

RECITALS

WHEREAS, the parties entered into an Agreement for professional environmental services for various City projects on April 23, 1999 and,

WHEREAS, the parties desire to amend the Agreement to allow CONSULTANT to perform additional professional environmental services related to performing environmental studies and environmental review process for the **Abel Street Infrastructure Improvements, Penitencia Creek Bank Repair Permitting**

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. Section 3, entitled "Scope of Consultants Duties and Services" is amended by adding Exhibit "A-15, B-15", which is attached hereto and incorporated by reference herein.
2. Exhibit B, entitled "Compensation Manner and Amount and Professional Team" is amended as described in Exhibit "A-15, B-15" which is attached hereto and incorporated by reference herein. Exhibit B is further amended by adding the following new sections at the end:

The compensation for the services set forth in Exhibit "A-15, B-15" is a "not to exceed" amount. The total maximum amount of maximum amount of compensation to be paid for the tasks outlined in Exhibit "A-15, B-15" shall be (\$27,562) for all the services.

3. All other provisions of the Agreement shall remain in full force and effect.

This Amendment is executed as of the date written above.

APPROVED BY:

CITY OF MILPITAS

RBF CONSULTING

City Engineer as to Content

City Manager

City Attorney as to Form

ATTESTED BY:

City Clerk

**PROPOSAL FOR ENVIRONMENTAL SERVICES:
ABEL STREET INFRASTRUCTURE IMPROVEMENTS,
PENITENCIA CREEK BANK REPAIR PERMITTING
CITY OF MILPITAS**

I. SCOPE OF WORK

RBF Consulting (RBF) is pleased to provide the following scope of work and professional fee estimate for environmental services needed to apply for agency permitting for the repairs to the east bank of the Penitencia Creek on the west side of Abel Street between Great Mall Parkway and Curtis Street.

Approximately 1300 linear feet of creek channel has experienced extensive erosion, which has undermined the existing sidewalk and some infrastructure along Abel Street. The City is proposing to repair the channel by stepping the bank and adding a soil rock mixture to the slope to rebuild it to its original dimensions and cross section. The proposed repairs would consist of minimal invasion into the channel itself. This work would be done during the agencies approved construction time frame to be verified by RBF. Although the current plans show rip rap protection on the channel banks, a soil rock combination would be used instead to rebuild the area of the channel bank that has been eroded. The City has already received a permit from the Santa Clara Valley Water District (SCVWD) for the proposed project; however, other regulatory permits need to be received for work to begin as soon as possible.

This scope of work has been prepared based on RBF's understanding of tasks required to apply for regulatory permits for the proposed project.

1.0 RESEARCH AND INVESTIGATION

RBF will review and evaluate the following available documents, reports and studies related to the proposed project:

- Updated engineering plans that show change without the use of riprap
- SCVWD permit
- Past environmental studies, reports, and regulatory permits for the project site, Penitencia Creek, and related actions within the watershed
- Other technical documents, reports and studies that may be relevant to the project area
- CEQA document or Categorical Exemption for project, whichever applies

Project research will include coordination with the City to acquire relevant environmental data, previous studies for the area and other available files, exhibits, maps and reference documents. The initial investigation will include a site visit, field survey and a review of existing environmental conditions.

1.1 Field Survey (optional)

RBF will rely on existing sources as provided by the City to determine the elevation of the Ordinary High Water Mark (OHWM) for the project. If the information proves to be inadequate for the purposes of regulatory permitting, RBF will request authorization to conduct a field survey to determine the elevation of the OHWM. The survey will determine the amount of fill to be placed within the U.S. Army Corps of Engineers (ACOE) jurisdiction, as well as the extent of California Department of Fish and Game (CDFG) jurisdiction. This information will be required for regulatory permitting.

1.2 Assessment of Regulatory Permitting Requirements

RBF will coordinate with representatives of ACOE to determine if an appropriate Nationwide Permit exists and can reasonably be applied to for the proposed project. However, if it is determined that no Nationwide Permit can be applied to the proposed project, RBF will provide services to obtain an Individual 404 Permit under a separate scope and fee.

Task 1 includes 4 hours for the Project Manager (\$144/hour), 32 hours for a planner (\$99/hour), and 16 hours for a 2-person survey crew (\$230/hour) for a total estimated fee of **\$7,424**.

2.0 REGULATORY PERMITTING

Based on the information provided for the project, RBF assumes the following permits and regulatory agency coordination efforts will be needed:

- SF-Regional Water Quality Control Board (RWQCB): Section 401 Water Quality Certification
- CDFG: 1602 Agreement -- Lake and Streambed Alteration
- ACOE: Nationwide 404 Permit

RBF will prepare permit applications for the above in draft form and will review application packages with the City. RBF will incorporate modifications from the City review and will prepare final application packages for submittal to the agencies by the City. RBF will provide support to the City and the regulatory agencies to answer questions and provide additional details as needed to meet the agency requirements. RBF will serve as the City's Agent for these permit applications.

2.1 ACOE

For purposes of this scope and fee, RBF has assumed that the project will be authorized under the Nationwide Permit Program. RBF will prepare a 404 permit application and submit to the ACOE for review and approval. RBF will provide coordination assistance through the federal review of the 404 permit application with the U.S. Fish and Wildlife Service (USFWS) and NOAA Fisheries. RBF has assumed that this will be limited to informal consultation.

2.2 RWQCB

RBF will coordinate with project engineers to implement design changes as may required by the Regional Board, such as the specification of an erosion control mat in lieu of the jute mat as proposed on the project plans.

2.3 Ongoing Regulatory Review

RBF will maintain ongoing review of materials and coordination with the project team and, as approved, with regulatory agency representatives to provide insight on regulatory issues, planned facilities, construction methods and operational impacts from the project. RBF will participate in project meetings, communicate by telephone, email and fax, perform project reviews and generate memoranda as required throughout the project to maintain ongoing support to the regulatory agency review.

Task 2 includes 2 hours for the Principal (\$205/hour), 8 hours for the Project Director (\$184), 4 hours for the Project Manager (\$144/hour), and 120 hours for a planner (\$99/hour) for a total estimated fee of **\$14,338**

3.0 ADDITIONAL SERVICES

Per the City's request, RBF has included a contingency fee in its professional fee estimate to provide additional services not specified in this Scope of Work. If the City requests additional services, RBF will provide a detailed scope, schedule and fee (within the contingency fee amount) for review by the City.

Task 3 would be used as necessary; therefore it is not defined by number of hours for specific people. The total estimated fee is **\$5,000**.

4.0 EXCLUSIONS

This professional fee estimate does not include permit application costs or costs associated with any required mitigation for the proposed project.

5.0 TOTAL ESTIMATED PROFESSIONAL FEE

The total estimated professional fee for the outlined tasks above is **\$27,562**, which includes \$800 for reimbursables.

CALIFORNIA HOURLY RATE SCHEDULE

Effective January 2006 through December 2006

<u>OFFICE PERSONNEL</u>		<u>\$ / Hr.</u>
Senior Principal		\$225.00
Principal.....		205.00
Project Director		184.00
Project Manager		160.00
Structural Engineer.....		160.00
Electrical Engineer.....		134.00
Senior Engineer/Senior Planner		141.00
Landscape Architect.....		130.00
Project Engineer/Project Planner		122.00
Environmental Specialist		118.00
Corrosion Engineer.....		145.00
Design Engineer/Senior Designer/Mapper		114.00
Designer/Planner.....		99.00
GIS Analyst		95.00
Graphic Artist.....		84.00
Environmental Analyst/Staff Planner		84.00
Design Technician.....		82.00
Assistant Engineer/Planner		78.00
Engineering Aid/Planning Aid		64.00
<u>FIELD PERSONNEL</u>		
2-Person Survey Crew		\$230.00
1-Person Survey Crew		153.00
Licensed Surveyor		150.00
Field Supervisor		145.00
<u>CONSTRUCTION MANAGEMENT PERSONNEL</u>		
Construction Manager		\$158.00
Resident Engineer/Project Manager.....		133.00
Senior Construction Inspector		103.00
Construction Inspector.....		100.00
Field Office Engineer.....		95.00
Construction Technician.....		82.00
<u>OTHER SERVICES AND FEES</u>		
Permit Processor.....		\$99.00
Clerical/Word Processing		54.00
Consultation Relative to Legal Actions		350.00
Vehicle Mileage		0.50/mile

Note:

Blueprinting, reproduction, messenger service and other direct expenses will be charged as an additional cost plus 15%. A Sub-consultant Management Fee of fifteen-percent (15%) will be added to the direct cost of all sub-consultant services to provide for the cost of administration, sub-consultant consultation and insurance.